

CHAPTER 820  
HIGHWAY GRADE CROSSING SAFETY FUND

[Substance formerly (06,C)Ch 3]  
[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 4]

**761—820.1(327G) Definitions.** The following terms when used in this chapter of rules shall have the following meanings:

*AAR signal unit.* The relative maintenance difficulty value assigned to component parts of an active warning device. Units and interpretations are designated by the Association of American Railroads Signal Manual, Part 203 (1984).

*Active warning devices.* Traffic control devices activated by the approach or presence of a train, such as flashing light signals, flashing light signals with cantilever assemblies, and flashing light signals with automatic gate arms, all of which actively warn motorists of a train.

*Maintenance costs of active warning devices.* Costs incurred by a railroad associated with the repair or replacement of obsolete, worn out, damaged, or missing component parts of an approved active warning device. Maintenance costs shall include repair or replacement of damaged, vandalized, or stolen component parts only for that amount which exceeds the amount recovered from the liable party or the liable party's insurer.

*Safety fund.* The highway grade crossing safety fund established in Iowa Code section 327G.19, and administered by the department.

This rule is intended to implement Iowa Code sections 327G.15 and 327G.19.

**761—820.2(327G) Use of fund.** The safety fund may be used for participation in a portion of maintenance costs associated with active warning devices, the installation of new active warning devices, or the replacement of obsolete ones.

This rule is intended to implement Iowa Code sections 327G.15 and 327G.19.

**761—820.3(327G) Use of fund for maintenance costs.**

**820.3(1) Maintenance cost participation.** The safety fund may be used to participate in the annual maintenance costs of active warning devices ordered or agreed to be installed on or after July 1, 1973, as stated in the individual order or agreement.

*a.* Orders or agreements which provide for revision in the maximum amount that can be expended from the safety fund, by reason of amendment of Iowa Code section 327G.15, shall be binding.

*b.* Orders or agreements which contain that provision were amended to read: The fund's participation for calendar years preceding 1977 shall be equal to that of the railroad but limited to a maximum of \$450 for any one year, for any one crossing, and for calendar year 1977 and subsequent years, the fund may participate in an amount up to 75 percent of annual maintenance costs of active warning devices based upon a cost for each eligible AAR signal unit.

*c.* Orders or agreements issued on or after March 8, 1978, shall provide that the safety fund may be used to participate in up to 75 percent of the annual maintenance costs of active warning devices, based upon a cost for each eligible AAR signal unit.

**820.3(2) Determination of eligible AAR signal units.**

*a.* The railroad shall tabulate the number of AAR signal units for each warning device which is eligible under subrule 820.3(1) of this chapter, and shall furnish the number to the rail and water division.

*b.* The rail and water division shall review the railroad's tabulation for conformance with AAR guidelines.

**820.3(3) Determination of unit maintenance costs.**

*a.* Each railroad having eligible warning device installations shall compile the actual maintenance costs for its entire warning device system in Iowa for the calendar year. A portion of the rail-

road's warning device system in adjacent states may be included if the railroad's signal districts are not wholly within Iowa. The maintenance costs to be compiled shall be 100 percent of allowable costs under account numbers 11-11-19, 21-11-19, 39/40-11-19, 41-11-19, and 61-11-19 plus 50 percent of allowable costs under account numbers 11-31-59, 21-31-59, 41-31-59, and 61-31-59 of the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, 49 CFR Part 1201, Subpart A (October 1, 1988). The compiled costs may include applicable labor additives and materials handling charges allowed in federal highway administration directives. Each railroad shall also tabulate the number of AAR signal units in its system.

b. For each calendar year, each railroad shall compile the actual maintenance costs and number of AAR units in accord with paragraph 820.3(3) "a" of this chapter. This compilation shall be submitted to the rail and water division by February 15 of each year for the preceding year and may be audited by the department.

c. The department shall compute an average unit maintenance cost for the preceding year to be used by all railroads for billing purposes.

d. The average unit cost computed for the preceding year shall be the basis for determining the safety fund's participation in the annual maintenance costs of all active warning devices eligible for participation in that year. However, the fund's percentage of participation shall not exceed 75 percent of the annual maintenance costs.

e. Before April 15 of each year, each railroad shall submit one billing to the rail and water division covering maintenance costs for the preceding year for all eligible warning device installations. Prior to reimbursement the department may perform an audit to determine conformity of the billed costs with the order or agreement. The department shall make proper reimbursement to each eligible railroad; however, if a railroad fails to submit a billing before April 15, the railroad may not be reimbursed. If, when all billings are received, it is determined that the safety fund is inadequate to reimburse all railroads in the amount of their total billings, the department shall reimburse each railroad on a prorated basis.

f. If a warning device has been installed less than one calendar year, the maintenance costs shall be prorated from the date the installation was placed in operation to the end of that calendar year.

**820.3(4) Cost to railroad.** The balance of the annual maintenance costs not paid from the safety fund shall be the responsibility of the railroad.

This rule is intended to implement Iowa Code sections 327G.15 and 327G.19.

#### **761—820.4(327G) Use of fund for warning device installation/replacement.**

**820.4(1) Percentage of participation.** After reimbursement of annual maintenance costs, any balance in the safety fund may be used to participate in a maximum of 90 percent of the project costs to install or replace active warning devices. The remaining 10 percent of the costs shall be paid by the jurisdiction having primary authority over the highway, street or alley at the crossing, unless otherwise agreed upon by the parties to the agreement.

**820.4(2) Priorities.** Use of the balance in the fund shall be determined as follows: Priority one—installation of new active warning devices; priority two—replacement of obsolete active warning devices.

This rule is intended to implement Iowa Code sections 327G.15 and 327G.19.

#### **761—820.5(327G) Procedures to use safety funds.**

**820.5(1) Project application.** The board of supervisors of a county, the council of a city, or the highway division of the department, hereinafter referred to as the jurisdiction, may submit candidate projects to the rail and water division.

**820.5(2) Selection of projects.** The department shall identify all candidate projects as either priority one or priority two as defined in rule 820.4(327G) and shall evaluate these projects in accordance with 761—Chapter 812, IAC.

a. Priority two projects may be considered ahead of priority one projects if the rail and water division determines that a more hazardous condition exists at a priority two project location.

b. The rail and water division shall notify the jurisdiction whether or not the project is selected and whether funds are available. Projects not selected shall be considered by the rail and water division for funding in the following year.

**820.5(3) *Request for negotiations.*** If a project is selected and funds are available, the jurisdiction shall submit a written request to the department to enter into negotiations with the railroad. The written request from a city or county shall be in the form of a resolution of the council or board of supervisors.

**820.5(4) *Negotiations for agreements.*** Upon receipt of the resolution or written request, the rail and water division shall initiate negotiations with the railroad. When concurrence is attained, a written agreement shall be consummated between the railroad, the rail and water division, and the jurisdiction.

a. Prior to execution of the agreement, the department may perform a preaudit evaluation of the railroad.

b. The preaudit evaluation may include: An examination of the railroad's accounting methods and procedures to determine the railroad's ability to segregate and accumulate costs to be charged against the project and to be charged for subsequent maintenance of active warning devices; an examination of the railroad's cost factors to ensure their propriety and allowability; and examination of any other general information available which might be pertinent or necessary in determining the railroad's auditability.

**820.5(5) *Provisions to be contained in the agreement.*** The written agreement shall specify the portion of the expenses which shall be paid by each party to the agreement including the costs associated with subsequent maintenance of the active warning device. The agreement shall specify the contract period and the method of payment from the safety fund. The installation, inspection, operation, and maintenance responsibilities of each party to the agreement for the active warning device shall be stated. The agreement may contain other provisions unique to a particular installation.

**820.5(6) *Resolution of disagreement.*** If an agreement cannot be reached, either the railroad or the jurisdiction may request a hearing. The request shall be submitted in writing to the rail and water division.

**820.5(7) *Processing of executed agreement.*** Upon final execution by the rail and water division, the agreement shall be transmitted to the jurisdiction by the rail and water division. The jurisdiction shall transmit the agreement to the railroad and authorize the railroad to order necessary materials and proceed with the work.

**820.5(8) *Inspection and certification of installed warning devices.*** Upon completion of the project, the railroad shall notify the rail and water division. If, upon inspection, the active warning device satisfies applicable specifications and standards, the rail and water division shall issue a letter of approval to the railroad.

**820.5(9) *Final billing.*** The railroad shall submit a final detailed billing for the project work to the rail and water division to be reviewed by the rail and water division and the jurisdiction for reasonable conformance with the agreement. The billing shall then be processed by the rail and water division for payment from the safety fund to the railroad.

**820.5(10) *Payments and audits.*** Payment from the safety fund shall be made as provided in the agreement. Before payment is authorized, the department may perform an audit to determine the conformity of the billed construction or maintenance costs with the agreement.

This rule is intended to implement Iowa Code sections 327G.15, 327G.16, 327G.17, and 327G.19.

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